

LABOUR DEPARTMENT

The 6th January, 1978

No. 19184-4Lab-77/458.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Tractel Tirfor, India, Private Limited, 14/6, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 75 of 1976

between

SHRI K. L. SHARMA, WORKMAN AND THE MANAGEMENT OF M/S. TRACTEL TIRFOR,
INDIA, PRIVATE LIMITED, 14/6, MATHURA ROAD, FARIDABAD

Present :

Shri Ram Murti Sharma for the workman.

Shri S. K. Basin for the management.

AWARD

On order No. ID/FD/75/63485, dated 9th October, 1975, the Governor of Haryana, referred the following dispute between the management of M/s. Tractel Tirfor, India, Private Limited, 14/6, Mathura Road, Faridabad and its workman Shri K. L. Sharma, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d), sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri K. L. Sharma was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 28th July 1976.

- (1) Whether Shri K. L. Sharma was a workman within that definition as given in section 2(s) of the Industrial Disputes Act, 1947?
- (2) Whether the termination of services of Shri K. L. Sharma was justified and order? If not, to what relief is he entitled?

The case was fixed for the evidence of the workman. The workman examined himself as W.W.1 and stated that he was employed as Senior Die Maker and he used to make Dies Gigs Fixtures with his present skill. He used to filing the dies and to cut with Hand Hexsa and Drilling also. Drill was working with power. He was getting Rs. 650 per mensem and there were helpers under him. Dearness allowance and increments were paid to other workers but when he demanded the management terminated his services and the management did not pay his amount towards wages. He proved certain documents. In cross-examination he stated that he was employed at wages of Rs. 520 per mensem and there were three Die Makers working in that factory and he was senior to them. He named all the three Die Makers. He admitted that he used to issue gate passes to the workmen. He denied that he used to allot work to the workmen engaged in his department, rather the work was allotted by the Engineer. The workman also examined Shri Mangal Singh Die Fitter as W.W.2 who deposed that the workman concerned was working with him as a Die Maker and that the workman concerned was working with his own hands and did not take work from others in the process of his own work. In cross-examination this witness stated that Mr. Charles used to supervise the work of all of them and that they used to give their leave application to Shri Charles. The workman then closed his case.

Then the case was fixed for the evidence of the management. The management examined Shri R. P. Sharma, Industrial Engineer as M.W.1 who stated that the workman concerned was working in the Tools Room as a Supervisor and his designation was a senior Die-Maker. He stated that Shri K. L. Sharma used to assign the job to the various workmen and record the work put in by them and was deputing incentive for the workmen and that the workman concerned used to see whether the workman were making the Dies properly or not. He further stated that there were separate incentive scheme

for the supervisors and workmen. The incentive for workmen were linked with productivity whereas the supervisors were getting fixed incentive and the workman concerned was getting fixed incentive. The registers of incentive were maintained by Shri K. L. Sharma, generally in his hand-writing. In cross-examination he could not give any letter authorising the workman concerned to perform all the acts as stated by him. He in cross-examination admitted that the workman concerned have never appointed any person nor he could do that. He has also admitted that the workman concerned has never charge-sheeted any workman nor he has dismissed any. He had no power like that. He further admitted that the workman concerned had never recommended any workman for promotion or increment although the supervisor is consulted for promotion or increment. He further stated that the leave allowed to workman or supervisor is the same in quantum. He further admitted that Shri K. L. Sharma was under Shri Charles, Tools Room Engineer. He denied the suggestion that the incentive scheme is based on a classification of workmen as highly skilled or semi-skilled etc. The management then examined Shri Kesho Parshad Time-keeper as M. W. 2 who stated that the workman concerned was also working as a supervisor. He stated that a register Ex. M. 17 pertains to supervisory staff. He stated that supervisors gets 10 days casual leave, 7 days sick leave and 14 days earned leave and the workman get 7 days sick leave, 7 days casual leave and earned leave according to the Factories Act. In cross-examination this witness could not give the wages of Sarvshri Hira Lal in despatch section, Ranga Nath Draftsman, Gangoli in despatch section and Shri N. P. Anand Store-keeper. The management further examined Shri J. Ranga Nathan Designs Draftsman who also stated that the workman concerned was a supervisor. He further stated that he was not aware of the working of the Tools Room. He stated that the workman was sitting at point 'H' shown in Ex. M-1, sketch plan but this witness was sitting in Administrative branch which is a separate one. He further stated that he need not to go to Tools Room as for as performance of his duty was concerned. He also could not say whether the name of Shri K. L. Sharma appeared in register Ex. M-17.

I have gone through the entire evidence of the parties oral as well as documentary. In Ex. W-1 the workman concerned has been described by the management as senior Die-maker. The management placed Ex. M-4 on the file where the workman concerned is purported to have signed above type written words "signatures of supervisor". The similar is the case with Ex. M-5 and M-6. In Ex. M-1 the management himself has given a certificate wherein they have described the workman concerned as a senior Die-maker. Similarly they have described the workman concerned as senior Die-maker as Ex. W-2. They have placed several documents but generally in all documents the workman concerned has been described as Senior Die Maker. They have also placed several documents regarding incentive in order to differentiate between the incentive paid to workman admitted by them to be workman and to other persons not admitted by them to be workman. I have gone through all these documents. Then the management has produced Ex. M-1 a sketch plan showing the table of the workman concerned. This sketch is prepared by them and does not carry any weight. They themselves have described the category of persons sitting on table in the Tools Room. This, by itself, does not prove that the workman concerned is not a workman. I have gone through the registers also Ex. M-4 and M-7. They do not prove that the workman concerned is not a workman.

The records and documents of the management themselves describe the workman concerned as a Senior Die Maker. Even in their letters they have described the workman concerned as Senior Die Maker. They themselves have designated the workman concerned as Senior Die Maker. A difference in incentive scheme does not prove that the workman concerned is not a workman. Similarly the register in which the name of the workman concerned does not appear, does not prove that the workman concerned is not a workman. Two Rulings have been cited before me reported in 1966-II-LLJ, page 194, I have gone through this ruling. There the matter was between a 'C' Rank Officer of the Bank and the management. This ruling does not help the management. The facts of this case are not similar to the facts of that case, rather the facts of this case are quite dissimilar to the facts of that case. Similarly the ruling reported in 1961-II-LLJ, page 94 does not apply to the facts of this case. There a person was employed as a representative in the Pharmaceutical concern and that person was not held to be workman. Here, in the instant case, the workman concerned is a senior Die Maker who does work in the factory from his own hand. I believe the statement of W. W. 1, and W. W. 2 the management has not produced any reliable evidence to prove that the workman concerned was not a workman, rather they themselves have admitted, previous to this dispute that he was a senior Die Maker. There may be difference in incentive for senior Die Maker and a Die Maker for skilled or Semi skilled workman. M. W. 1 Shri R. P. Sharma is an Industrial Engineer. He has deposed that he was aware of the Tools Room. It quite clearly shows that his duty was not in Tools Room nor his chair has been shown in the Tools Room. Not a single person whose seat has been shown in Tools Room in Ex. M-1 has been produced by the management which goes much against them. Even the management has not produced Mr. Charles who is Tools Room Engineer as per the statement of M. W. 1 Shri R. P. Sharma, the Industrial Engineer. M. W. 2 is a time-keeper and M. W. 3 is a Design Draftsman who have no duty to perform in the Tools Room shown in Ex. M-1.

The management have failed to prove that the workman concerned was not a workman and the workman concerned has proved from his evidence as well as from the evidence of the management even documentary, that he was a workman within the definition as given in section 2(s) of the Industrial Disputes Act.

I have seen the definition of workman as given in section 2(s) of the Industrial Disputes Act. According to that definition, the workman concerned is a workman. I, therefore, hold issue No. 1 in favour of the workman.

Issue No. 2 -

The case of the management is that Shri K. L. Sharma was not a workman and hence they could terminate his services as they liked without any thing more. But I have held issue No. 1 in favour of the workman concerned and against the management holding that the workman concerned is a workman as defined in section 2(s) of the Industrial Disputes Act, hence the termination of services of Shri K. L. Sharma was neither justified nor in order. He is entitled to reinstatement with continuity of service and with full back wages.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 7th December, 1977.

No. 1195, dated 8th December, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 8th December, 1977.

No. 970-3Lab-78/1195.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Faridabad Manufacturing (Engineering Products) Private Ltd., Sector 6, Faridabad :—

**BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD**

Reference No. 44 of 1977

between

**SHRI HARBANS SINGH, WORKMAN AND THE MANAGEMENT OF M/S FARIDABAD
MANUFACTURING (ENGINEERING PRODUCTS) PRIVATE LIMITED,
SECTOR 6, FARIDABAD**

Present.

Shri Viney Sabarwal, for the workman.

Shri R. C. Sharma, for the management.

AWARD

By order No. ID/FA/1058-G-77/19704, dated 19th May, 1977, the Governor of Haryana referred the following dispute between the management of M/s Faridabad Manufacturing (Engg. Products) Private Limited, Sector 6, Faridabad and its workman Shri Harbans Singh, to his Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Harbans Singh was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties the following issues were framed on 29th August, 1977 :—

- (1) Whether the workman concerned was a probationer? If so, to what effect?
- (2) If issue No. 1 is not proved, whether the termination of services was justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the manament. At this stage the parties stated that they have settled the dispute. Their statements were recorded. The representative for the workman stated that if the management pays to him a sum of Rs 1100 only in full and final settlement of all his claims and dues, he gives up his dispute and he shall not be entitled to reinstatement or re-employment by the management, to which the representative for the management agreed. I, therefore, give my award as follows :—

- (1) That the workman is entitled to receive a sum of Rs. 1100 only from the management and on payment thereof all the claims and dues of the workman concerned against the management shall be deemed to have been satisfied and the said payment shall be full and final settlement.
- (2) That on payment of the above said sum of Rs. 1100 only to the workman concerned by the management, it shall be deemed that the termination of services of Shri Harbans Singh was justified and in order and he shall not be entitled to any relief whatsoever. He shall also not be entitled to make any claim of any kind against the management including the claim to reinstatement or re-employment.

Dated the 16th January, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 58, dated 18th January, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 18th January, 1978.

No. 971-3Lab-78/1197.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Aya Ram-Tota Ram, 5-A/16, NIT, Faridabad :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 204 of 1977

between

SHRI SOM NATH WORKMAN AND THE MANAGEMENT OF M/S AYA RAM-TOTA RAM,
5-A/16, N.I.T., FARIDABAD.

Present—

Shri Roshan Lal Sharma, for the workman.

Nemo, for the management.

AWARD

By order No. ID/FD/440-77/48125, dated 14th November 1977, the Governor of Haryana, referred the following dispute between the management of M/s Aya Ram-Tota Ram, 5-A/16, N.I.T., Faridabad and its workman Shri Som Nath, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of Sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Som Nath was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference notices were issued to the parties. The parties appeared. The workman filed his claim statement. The case was fixed for filing written statement by the management.

At this stage the representative for the workman gave a statement that the workman has received all his dues in full and final settlement of his claim and has left for good and the representative for the workman withdrew the dispute. I, therefore, give my award as follows :—

That the termination of service of Shri Som Nath was justified and in order. He is not entitled to any relief.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated, the 16th January, 1978.

No. 59, dated 18th January, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 18th January, 1978.

No. 973-3Lab-78/1199.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s India Steel Corporation, 15/1, Mathura Road, Faridabad :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD

Reference No. 178 of 1977

between

SHRI CHHEDDI LAL, WORKMAN AND THE MANAGEMENT OF M/S INDIA STEEL
CORPORATION, 15/1, MATHURA ROAD, FARIDABAD.

Present :—

Shri H. S. Gill for the workman.

Shri Mohan Raj Dhawan, for the management.

AWARD

By order No. ID/359-77/46642, dated 24th October, 1977, the Governor of Haryana, referred the following dispute between the management of M/s India Steel Corporation, 15/1, Mathura Road, Faridabad and its workman Shri Chheddi Lal, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d), sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Chheddi Lal was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared. The workman filed his claim statement. The case was fixed for filing written statement by the management.

At this stage both the parties stated that the settlement has been arrived at between them. The workman has left for good after receiving all his dues in full and final settlement. The management produced a photostat copy Exhibit M-1 of the voucher through which the workman was paid. The management had also brought the original voucher for inspection which was returned to them after inspection. Settlement Exhibit M-2 was also filed. In view of the settlement, I gave my award as follows :—

That the termination of services of Shri Chheddi Lal was justified and in order. He is not entitled to any relief whatsoever. He has already received all his dues.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated, the 20th January, 1978.

No. 69, dated the 24th January, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated, the 24th January, 1978.

No. 977-3Lab-78/1203. - In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Faridabad Manufacturing (Engineering Products) Private Limited, Sector 6, Faridabad:—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No 198 of 1976

between

SHRI RAM PAT, WORKMAN AND THE MANAGEMENT OF M/S FARIDABAD
MANUFACTURING (ENGINEERING PRODUCTS) PRIVATE LIMITED,
SECTOR 6, FARIDABAD

Present :—

Shri Onkar Parshad, for the workman.

Nemo for the management.

AWARD

By order No. ID/FD/1058-C-76/34588, dated 21st September, 1976, the Governor of Haryana referred the following dispute between the management of M/s Faridabad Manufacturing (Engineering Products) Private Limited, Sector 6, Faridabad and its workman Shri Ram Pat to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d), sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ram Pat was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference notices were issued to the parties. The parties appeared. On 20th December, 1977 the representative for the management made a statement that he had no instructions from the management to appear in this reference and that the factory had been closed. Then *ex parte* proceedings were ordered against the management and the case was fixed for the *ex parte* evidence of the workman. The workman examined himself as his own witness who stated that he remained ill in the month of May for 5/6 days and produced medical certificate to the management. He worked upto 15th June, 1976. The management terminated his services on 16th June, 1976 without any cause or giving notice to him. He further stated that he had not appeared as witness on the initiation of the management in the case of Sarvshri Gorkh Nath and Prem Chand and therefore the management got annoyed with him and terminated his services for that reason and he was unemployed up till now.

From the *ex parte* evidence of the workman, I am satisfied that the management terminated the services of the workman unjustifiably. I, therefore, give my award as follows :—

That the termination of services of Shri Ram Pat was neither justified nor in order. He is entitled to reinstatement with continuity of service and full back wages.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated, the 18th January, 1978.

No. 65, dated the 24th January, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated, the 24th January, 1978.